

— AA 169-00  
VAR

Bragdon, Charles  
0111

USA-S-1829-708

LC 4/4/00  
letter

169-00

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2000-0111-V

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IN RE: CHARLES BRAGDON AND KATHLEEN McPHAUL

THIRD ASSESSMENT DISTRICT

DATE HEARD: MAY 16, 2000

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ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: PATRICIA A. MILEY

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DATE FILED: MAY 18, 2000

RECEIVED

MAY 22 2000

CHESAPEAKE BAY  
CRITICAL AREA COMMISSION

## **PLEADINGS**

Charles Bragdon and Kathleen McPhaul, the applicants, seek a variance (2000-0111-V) to permit a dwelling addition with less setbacks than required on property located along the east side of Fairlane Court, north of Oak Court, Severna Park.

## **PUBLIC NOTIFICATION**

The case was advertised in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175' of the property was notified by mail, sent to the address furnished with the application. Mr. Bragdon testified that the property was posted for 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

## **FINDINGS AND CONCLUSIONS**

The applicants own a single-family residence located at 447 Fairlane Court, in the subdivision of Fair Oaks on the Magothy, Severna Park. The property comprises 19,345 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). This is a nonwaterfront lot. The applicants propose to construct a sunroom (14' X 14') and screened porch (14' X 14') addition with stairs to grade. The front corner of the

addition is within eight feet of the south side property line. The dwelling maintains 10 feet from the north side property line.

The Anne Arundel County Code, Article 28, Section 2-506(a) requires a combined side yard width of 20 feet in the R-5 district. Accordingly, the proposal necessitates a variance of two feet.

Patricia A. Miley, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property far exceeds the minimum area and width for the R-5 district but exhibits an unusual five sided shape. She suggested several alternatives to the proposed side-by-side rooms, any one of which would obviate the need for a variance. Her alternatives included reducing the size of the sunroom to 12 feet, shifting the addition slightly to the rear, and relocating the addition over an existing patio on the northwest side of the dwelling. By way of conclusion, she opposed the request.<sup>1</sup>

Mr. Bragdon confirmed the unusual shape of this cul-de-sac lot. He also observed that the property abuts a storm drain easement along its southern boundary. The witness indicated that the present proposal provides access from the kitchen to the new rooms while shifting the construction to the rear would require access through a bathroom. The addition cannot be sited at the northwest corner of the dwelling without cutting a 32-inch diameter tree. Mr. Bragdon submitted other examples of approved variances for cul-de-sac lots within the

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<sup>1</sup>The written comment from the Chesapeake Bay Critical Area Commission is silent on the setback issue but requests replacement in kind for any vegetation which is removed.

community.

Dave Kelly, who resides immediately to the south, testified that the proposal will have no significant impact on the use and enjoyment of his property. There was no adverse testimony concerning the application.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. This case satisfies the test of unique physical conditions, consisting of an irregular cul-de-sac lot, such that there is no reasonable possibility of developing the lot in strict conformance with the code. I further find that the variance is the minimum necessary to afford relief. Only a small segment of the addition (eight square feet) will be nonconforming. There was nothing to suggest that the granting of the variance will alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare. Rather, in view of the storm drain easement which abuts the southern property line, the approval of the variance will go unnoticed. The approval shall be subject to the condition in the Order.

### **ORDER**


PURSUANT to the application of Charles Bragdon and Kathleen McPhaul, petitioning for a variance to permit a dwelling addition with less setbacks than required; and

PURSUANT to the advertising, posting of the property, and public hearing

and in accordance with the provisions of law, it is this 18<sup>th</sup> day of May, 2000,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** a variance of two feet to the required 20-foot minimum combined side yard width to permit a dwelling addition (14' X 14' sunroom, 14' X 14' screened porch and stairs to grade) in accordance with the site plan.

*The foregoing variance is subject to the condition that the applicants shall replace in kind any vegetation that is removed.*

  
Stephen M. LeGendre  
Administrative Hearing Officer

#### **NOTICE TO APPLICANT**

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

Judge John C. North, II  
Chairman



Ren Serey  
Executive Director

**STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401  
(410) 260-7516 Fax: (410) 974-5338

April 3, 2000

Mr. Kevin Dooley  
Anne Arundel County Department of Planning and Code Enforcement  
2664 Riva Road, MS 6301  
Annapolis, MD 21401

RE: Variance 2000-0111-V, Charles Bragdon

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit a dwelling addition with less setbacks than required. The property is designated LDA and is currently developed with a single family dwelling.

Because impervious surfaces are not an issue and there are no impacts to Habitat Protection Areas, this office has no comment on this setback variance. Vegetation which is removed should be replaced in kind.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler  
Natural Resources Planner

cc: AA169-00

Branch Office: 31 Creamery Lane, Easton, MD 21601  
(410) 822-9047 Fax: (410) 820-5093

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450

- 1) B.R.L. information: If shown, was obtained from existing record plot or local agencies and is not guaranteed by NIT, Inc.
- 2) Bulfinch line and/or Flood Zone information is subject to the interpretation of the originator.
- 3) NIT, Inc. does not certify to unknown or unrecorded encroachments or overlaps.
- 4) Property markers NOT found, or guaranteed by this hoodlum.
- 5) Setback distance accuracy:  $\pm$

000 = shares

EX-151  
RICK LOT #5  
08.15"



Stages in growth of the embryo

LOCATION DRAWING  
447 FAIRLANE COURT  
ANNE ARUNDEL COUNTY, MARYLAND

NTT Associates, Inc.	Scale: 1" = 40'
16205 Old Frederick Road	Date: 6-3-95
Mt. Airy, Maryland 21771	Field By: MITCH
Ph. (410)442-2031	Drawn By: MITCH
Fax No. (410)442-1315	Drawing # 3073ANN